REMARKS

Claim 26 has been amended to make absolutely clear that the locking elements along the common joint either increase entirely along the locking joint or decrease entirely along the locking joint in a linear manner. It is respectfully urged that this was the existing meaning of claim 26. The terms "increase or decrease entirely along the joint" should have connoted that the "or" was an exclusive "or" consistent with the Applicant's specification and drawings (see Fig. 1). Nevertheless, as now amended, there can be absolutely no doubt as to the meaning.

The language of claim 26 thus distinguishes Figure 1 of Konzelmann et al. U.S. Publication No. 2004/0168392 A1 in which the common joint has a zigzag pattern.

The Examiner is urged to reconsider the carefully made argument set forth in the response of July 23, 2008 with this Amendment in mind.

The Examiner has rejected claims 26 to 34 and 46 to 51 under 35 U.S.C. § 103(a) as being unpatentable in view of Konzelmann et al.

Since Konzelmann et al. only teaches a zigzag common joint, there is no suggestion in Konzelmann et al. to replace the zigzag joint with a joint as specified in Applicant's claim 26. Moreover, there is no apparent reason for doing so. At least for this reason, the claims dependent upon claim 26 are also allowable.

The Examiner has rejected Applicant's argument regarding claim 29 asserting that "[t]here is no indication in the claims that the boards can be brought together 'without rotation of one board relative to the other.'" The Examiner is incorrect. The claim specifically provides "there is an initial position into which the boards can exclusively be brought by lowering in a vertical direction." [Emphasis added.] This language clearly excludes rotation of one board relative to the other.

The Examiner is urged to reconsider the arguments set forth in the Amendment of July 23, 2008 with regard to claim 29 and the claims dependent thereon.

The Examiner has rejected Applicant's argument with regard to claim 46 stating: "Examiner wants to note that the boards of the instant application require the engagement of the tongue into the groove prior to displacement as indicated in Figure 2b."

The Examiner misreads Figure 2b and ignores the clear explanation at page 16 of the specification which reads:

> The locking elements according to 2b are made in such a way that, starting from an initial position, a final position in which there is no play between the boards 1 and 2 or panels is reached by displacement within a plane parallel relative to the connecting joint. Furthermore, the locking elements according to figure 2b are made in such a way that the board 2 can be lifted in a perpendicular direction in the initial position shown, i.e., that no perpendicular locking has yet taken place. This is not possible anymore in the intermediate position.

The Examiner is urged to reconsider the argument set forth in the Amendment of July 23, 2008 with regard to claim 46 and claims 47 to 51.

The Examiner has rejected claims 35 to 37 and 39 to 45 based upon the combined teachings of Konzelmann et al. in view of McBurney U.S. Patent No. 2,016,382. The Examiner asserts:

> Therefore, it would have been obvious to substitute the locking elements (r, s) of German Patent with the locking elements of McBurney since this would have yielded predictable results, which is an interlocking action to one of ordinary skill in the art at the time of the invention such as interlocking floor boards.

However, the Examiner has failed to consider the fact that even assuming arguendo there was a reason to combine teachings, the modification of the German patent to incorporate the key and keyway structure of McBurney would eliminate the ability of the two boards to be drawn together which is a principal object of Applicant's invention. Combining references in a way to eliminate advantages of the Applicant's invention makes no sense.

In view of the foregoing amendments and remarks, it is urged this case is now in condition for allowance. Please enter the amendments for purposes of appeal.

Respectfully submitted,

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